

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

ANTHONY LAINE	:	
Plaintiff,	:	Civil Action No: 05-16
	:	
v.	:	Order and Opinion
	:	
MAXIMUS, INC. et als.,	:	
Defendants.	:	

**IT APPEARING** that the above captioned action has been pending for more than 120 days and plaintiff has failed to effect service during this time; and

**IT FURTHER APPEARING** that, on April 14, 2005, the Court ordered Plaintiff to effect proper service on the Defendants within the parameters of Fed. R. Civ. P. 4(m) by May 5, 2005, or else the Complaint would be dismissed<sup>1</sup>; and

**IT FURTHER APPEARING** that no summons has issued in this

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<sup>1</sup> "If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision does not apply to service in a foreign country pursuant to subdivision (f) or (j)(1)." Federal Rules of Civil Procedure Rule 4(m). See also Barrett v. City of Allentown, 152 F.R.D. 46 (E.D. Pa. 1993) (dismissal of plaintiffs' complaint on defendants' motion, since filing of amended complaint did not toll 120-day period for service of process following filing of original complaint, and plaintiffs' pro se status did not constitute good cause for failure to serve city within 120 days of filing original complaint after warning from court that action would be dismissed if proper service were not made in timely fashion).

case; and

**IT FURTHER APPEARING** that on February 10, 2005, this Court Dismissed a Complaint, filed by this Plaintiff against these Defendants, file number 04-3452, for failure to effect proper service on the Defendants within the parameters of Fed. R. Civ. P. 4(m);

It is on this 13th day of May 2005,

**O R D E R E D** that the above captioned action be and is hereby dismissed, pursuant to F. R. Civ. P. 4(m), without prejudice and without costs.

\_\_\_\_\_/s/\_\_\_\_\_  
Stanley R. Chesler  
United States District Judge